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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,247	12/12/2003	Toshiki Nanya	246578US2	9472
22850	7590	09/27/2006	EXAMINER	
C. IRVIN MCCLELLAND OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			GOODROW, JOHN L	
			ART UNIT	PAPER NUMBER
			1756	

DATE MAILED: 09/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/733,247

Applicant(s)

NANYA ET AL.

Examiner

John L. Goodrow

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>8/06</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yagi et al [20030138717] in view of Emoto et al [20030152859] and Iida et al [20020146258].

Applicants' claims are to a toner, a developer having the toner, an image forming process using the toner, a container having the developer, an image forming apparatus having a developing unit with the toner and a process cartridge with the toner. Yagi et al teaches a toner, developing method and toner container that has a toner prepared with a modified polyester resin reactive with active hydrogen [0115] with an unmodified polyester [0145]. The method for manufacturing of the toner is taught [0187] by a suitable aqueous media. A dispersant can be preferably used when the dispersion is prepared so that the dispersion includes particles [0197]. The binder resin has an acid value of 1-30mgKOH/g [0197]. Applicants' claim 4 and a glass transition temperature of from 50-70°C [0197]. Yagi et al fails to teach the physical measurement of the storage elastic modulus or the weight ratio of the polyesters. Emoto et al teaches a toner, developer, an image forming method and apparatus in which the toner composition has the binder resin of a modified polyester and an unmodified polyester that are present in a weight ratio (modified to unmodified) of about 0.31, which is within the ratio 5/95 to 75/25 [0214]. See example 4 at page 12 and paragraph [0214].

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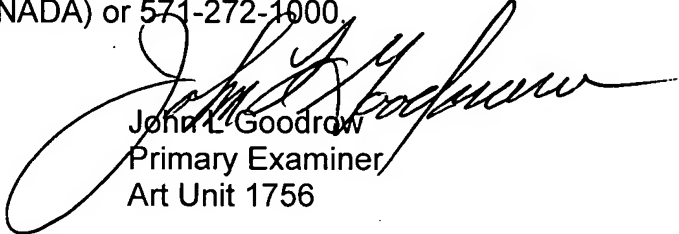
The toner has a spindle form and a volume average particle size of 6.2mm. Emoto '859' further teaches a container comprising the toner note [0117] and the image developer 4 in Fig. 1. The storage elastic modulus is a physical property of the binder resin and if the binder resins are of the same resins then it is assumed that the resins have the same properties. Iida et al. teaches that in case of the same binder resin material, the storage elastic modulus (G') can be controlled by controlling M_w . In the same material (for example a polyester), the storage modulus can be increased by increasing M_w . Further it can be controlled by the type or the molecular weight distribution of the binder resin material. The range for a toner material in the image forming method and apparatus is from 200-6000 Pa. It would be obvious to one of ordinary skill in the art at the time of applicants' invention with a reasonable expectation of success to use the binders having the storage elastic modulus that is useful in a toner developer and an imaging method that has modified polyesters as taught by Yagi et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John L. Goodrow whose telephone number is 571-272-1384. The examiner can normally be reached on Monday -Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark F. Huff can be reached on 571-272-1385. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



John L. Goodrow
Primary Examiner
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